

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of)	
)	
Empowering Consumers to Prevent)	CG Docket No. 11-116
and Detect Billing for Unauthorized)	
Charges (“Cramming”))	
)	
Consumer Information and Disclosure)	CG Docket No. 09-158
)	
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170

**REPLY COMMENTS
OF THE MISSISSIPPI PUBLIC SERVICE COMMISSION**

The Mississippi Public Service Commission (“MPSC”) respectfully submits reply comments to the Federal Communications Commission (“FCC” or “Commission”) in response to the Report and Order and Further Notice of Proposed Rulemaking (“Order”) released April 27, 2012, in the above-captioned proceedings.¹ The MPSC appreciates the Commission’s intent and its adoption of measures to help consumers to detect and prevent the placement of unauthorized charges on their telephone bills.

The MPSC is concerned about the fact that cramming has defrauded many citizens and businesses in Mississippi. As stated in the Order, the overwhelming evidence shows that the volume of complaints received by the FCC understates the extent of consumer frustration with cramming.² The MPSC agrees with the Commission that these unauthorized charges may go undetected for months and sometimes years. The

¹ See Report and Order and Further Notice of Proposed Rulemaking, FCC 12-42 (rel Apr 27, 2012).

² *Id.* at ¶ 22.

frustration of the consumers is further exacerbated by not knowing what steps to take to dispute the charges or to file a complaint with the Commission or with the MPSC.

Cramming complaints continue to comprise one of the top billing-related grievances that our investigators handle. Many consumers do not realize that entering a telephone number on a website may trigger unauthorized billing or that their billing information may be provided to companies whose business model is based on cramming practices. Also, many consumers trust their local telephone company and never review their bill for these hidden charges.

Devious methods of verification or authentication further contribute to cramming possibilities. Some companies who engage in cramming record conversations as proof of authorization by the consumer to add these charges. In one instance in a cramming complaint in Mississippi, the tape recording verification provided by the billing company to the investigator revealed that they had to instruct a ninety-year old woman three times that she had to respond with “yes” to continue. Without regulation to thwart cramming, it will escalate and many more vulnerable citizens will fall prey to these practices.

Although the MPSC appreciates the Commission’s consideration of an “opt-in” approach to placing third party charges on consumers’ bills,³ this method would not stop a creative con artist from circumventing any opt-in mechanism. The MPSC agrees with the comments made by the National Association of State Utility Consumer Advocates (“NASUCA”), that the best solution to this problem is to directly prohibit the billing of unauthorized charges on phone bills.⁴

³ Order at ¶¶ 139-140.

⁴ See Initial Comments of NASUCA, June 25, 2012, page 17.

The MPSC is committed to continuing its cooperation with the FCC and the Federal Trade Commission (“FTC”) to bring about strict enforcement action and penalties for violators. We recognize that the Commission has been successful in its response to consumer cramming complaints, as evidenced in 2011, when the Commission released four NALs (Notice of Apparent Liability) proposing an aggregate of \$11.7 million in forfeitures against a number of long distance resellers for apparent cramming violations.⁵ While we applaud the FCC’s efforts to actively address the abuse and fraud relating to cramming on wireline phone bills, we implore you to do more to stop these predatory practices entirely on wireless technologies as well.

Senator Jay Rockefeller, Chairman of the Senate Committee on Commerce, Science and Transportation, recently introduced legislation⁶ that will end the practice of cramming on wireline bills and that instructs the FCC and FTC to create rules to address cramming on wireless customers’ bills.⁷ In the FCC’s findings it was determined that, of 1,700 cramming complaints received, 63% of these were related to wireline telecommunications and 30% were related to wireless telecommunications.⁸ The Cellular Telecommunications Industry Association (“CTIA”) reported a dramatic increase in the number of wireless-only households, which increased to 31.5% of all households as of December, 2011, compared to only 10.5% in December, 2006.⁹ The National Health Statistics Reports reported in April, 2011, that Mississippi has one of the highest percentages of wireless-only households in the nation at 35.1%.¹⁰ After

⁵ Order at ¶ 23.

⁶ S. 3291, the Fair Telephone Billing Act of 2012.

⁷ National Association of Regulatory Utility Commissioners (“NARUC”), The Semi-Weekly Voice of NARUC, June 18, 2012, Issue 12.

⁸ Order at ¶ 21.

⁹ See CTIA Wireless Quick Facts at <http://www.ctia.org/advocacy/research/index.cfm/aid/10323>.

¹⁰ National Health Statistics Reports, Number 39, April 20, 2011, Page 4.

considering the nationwide increase of wireless-only households reported by the CTIA and similar statistics for Mississippi, the MPSC predicts that the cramming problems for wireless consumers will increase exponentially as wireline households adopt wireless technology as their telecommunication choice. The MPSC supports the FCC's efforts to seize this opportunity to address the wireless cramming issue as Senator Rockefeller proposes.

Further, the MPSC supports the resolution by the National Association of Regulatory Utility Commissioners ("NARUC") which was adopted on November 16, 2011, at its Annual Meeting in St. Louis, Missouri, urging the FCC to adopt mandatory cramming rules for all voice service providers.¹¹ NARUC's resolution urged the Commission to protect all voice service consumers from cramming billing practices regardless of the technology used, including wireline service providers, interconnected Voice-over Internet Protocol ("VoIP") service providers, and wireless service providers. We also agree with the comments filed by NARUC which state that the Commission should take additional steps to prevent cramming.¹²

The MPSC supports the revised rules that strengthened the Truth-in-Billing Requirements and blocking options, but urges the Commission to consider more stringent rules and enforcement actions that will help protect our citizens from the cramming culprits.

The Commission has comprehensively recognized that the only beneficiaries of cramming have been the opportunistic companies that prey upon unknowing consumers. The MPSC thanks you for what you have done already and appreciates your concern and

¹¹ <http://naruc.org/Resolutions/Resolution%20on%20Cramming.pdf>.

¹² See NARUC initial comments dated June 25, 2012.

your efforts to address this important matter, so that only authorized charges are billed to consumers for all technologies. We must engage in a collaborative effort to reduce and hopefully eliminate the corrupt antics of aggregators and third party billing companies who engage in illegitimate and dishonest cramming scams. There must be transparency and accountability in the billing of third party charges, and there must be enforcement of violations associated with telephony billing practices.

The MPSC appreciates the opportunity to file these reply comments on such a historic matter that will benefit so many of our consumers whom we have committed to serve.

Respectfully Submitted,

MISSISSIPPI PUBLIC SERVICE COMMISSION



Leonard Bentz, Chairman



Lynn Posey, Vice Chairman



Brandon Presley, Commissioner

Dated: July 9, 2012